



General Assembly

January Session, 2017

Raised Bill No. 7196

LCO No. 4508



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING NONADVERSARIAL DISSOLUTION OF
MARRIAGE AND THE ISSUANCE OF A DEFAULT JUDGMENT IN A
MATTER INVOLVING DISSOLUTION OF MARRIAGE, DISSOLUTION
OF CIVIL UNION OR LEGAL SEPARATION.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 46b-44a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) An action for a nonadversarial dissolution of marriage may be
4 commenced by the filing of a joint petition in the judicial district in
5 which one of the parties resides. The joint petition shall be notarized
6 and contain an attestation, under oath, by each party that the
7 conditions set forth in subsection (b) of this section exist.

8 (b) An action brought pursuant to subsection (a) of this section may
9 proceed if, at the time of the filing of the action, the parties attest,
10 under oath, that the following conditions exist: (1) The marriage has
11 broken down irretrievably; (2) the duration of the marriage does not
12 exceed [eight] nine years; (3) neither party to the action is pregnant; (4)
13 no children were born to or adopted by the parties prior to, or during,

14 the marriage; (5) neither party has any interest or title in real property;
15 (6) the total combined fair market value of all property owned by
16 either party, [excluding all encumbrances, is less than thirty-five
17 thousand dollars] less any amount owed on said property, is less than
18 eighty thousand dollars; (7) neither party has a defined benefit pension
19 plan; (8) neither party has a pending petition for relief under the
20 United States Bankruptcy Code; (9) neither party is applying for or
21 receiving benefits pursuant to Title XIX of the Social Security Act; (10)
22 no other action for dissolution of marriage, civil union, legal separation
23 or annulment is pending in this state or in a foreign jurisdiction; (11) a
24 restraining order, issued pursuant to section 46b-15, or a protective
25 order, issued pursuant to section 46b-38c, between the parties is not in
26 effect; and (12) the residency provisions of section 46b-44 have been
27 satisfied. After the filing of the joint petition and prior to the court
28 entering a decree of dissolution of marriage pursuant to section 46b-
29 44c, if a change occurs with respect to any of the conditions set forth in
30 this subsection, one or both of the parties shall notify the court
31 forthwith of the changed condition. For the purposes of this
32 subsection, "defined benefit pension plan" means a pension plan in
33 which an employer promises to pay a specified monthly benefit upon
34 an employee's retirement that is predetermined by a formula based on
35 the employee's earnings history, tenure of service and age.

36 (c) In addition to attesting to the conditions enumerated in
37 subsection (b) of this section, any joint petition filed pursuant to
38 subsection (a) of this section shall also state the date and place of
39 marriage and the current residential address for each party.

40 (d) A joint petition shall be accompanied by financial affidavits
41 completed by each party on a form prescribed by the Office of the
42 Chief Court Administrator, a request for the court to order the
43 restoration of a birth name or former name, if so desired by either
44 party, and a certification attested to by the parties, under oath, that: (1)
45 The parties agree to proceed by consent and waive service of process;
46 (2) neither party is acting under duress or coercion; and (3) each party

47 is waiving any right to a trial, alimony, spousal support or an appeal.

48 (e) If the parties submit a settlement agreement to the court that
49 they are requesting be incorporated into the decree of dissolution, such
50 settlement agreement shall be filed with the joint petition. Each party
51 shall attest, under oath, that the terms of the settlement agreement are
52 fair and equitable. If the court finds that the settlement agreement is
53 fair and equitable, it shall be incorporated by reference into the decree
54 of the court. If the court cannot determine whether such agreement is
55 fair and equitable, the matter shall be docketed for the court's review
56 in accordance with the provisions of section 46b-44d, as amended by
57 this act.

58 (f) The provisions of subsection (a) of section 46b-67 shall not apply
59 to a nonadversarial dissolution action brought under this section.

60 Sec. 2. Section 46b-44d of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2017*):

62 (a) If after review of a settlement agreement filed pursuant to
63 subsection (e) of section 46b-44a, as amended by this act, the court
64 cannot determine whether such settlement agreement is fair and
65 equitable, the matter shall be docketed on a date not later than thirty
66 days after the assigned disposition date and the court shall command
67 that the parties appear before the court on such date. If the court
68 determines that the settlement agreement is fair and equitable, the
69 court may enter a decree of dissolution of marriage. If the court is
70 unable to make such a determination, the court may order the
71 termination of the nonadversarial dissolution action and order that the
72 matter be placed on the regular family docket of the Superior Court. If
73 the matter is placed on the regular family docket of the Superior Court,
74 all provisions of this chapter, except for the provisions of subsection (a)
75 of section 46b-45, as amended by this act, shall apply to the matter. No
76 new filing fee shall be imposed by the court.

77 (b) If after review of the joint petition, the court does not enter a

78 decree of dissolution of marriage pursuant to subsection (b) of section
79 46b-44c, the matter shall be docketed on a date not later than thirty
80 days after the assigned disposition date and the court shall command
81 that the parties appear before the court in order for the court to
82 determine if the criteria in section 46b-44a, as amended by this act,
83 have been met, and whether a decree of dissolution of marriage may
84 enter. If the court does not enter the decree of dissolution of marriage,
85 the court may order the termination of the nonadversarial dissolution
86 action and order that the matter be placed on the regular family docket
87 of the Superior Court. If the matter is placed on the regular family
88 docket of the Superior Court, all provisions of this chapter, except for
89 the provisions of subsection (a) of section 46b-45, as amended by this
90 act, shall apply to the matter. No new filing fee shall be imposed by the
91 court.

92 Sec. 3. Section 46b-45 of the general statutes is repealed and the
93 following is substituted in lieu thereof (*Effective October 1, 2017*):

94 (a) A proceeding for annulment, dissolution of marriage or civil
95 union or legal separation shall be commenced by the service and filing
96 of a complaint as in all other civil actions in the Superior Court for the
97 judicial district in which one of the parties resides. The complaint may
98 also be made by the Attorney General in a proceeding for annulment
99 of a void marriage. The complaint shall be served on the other party.

100 (b) Any writ, summons and complaint for dissolution of marriage,
101 dissolution of civil union or legal separation shall include notice to the
102 defendant that if he or she does not file an appearance with the court
103 within fourteen days after the return date, upon written motion of the
104 plaintiff, a default judgment may enter against the defendant anytime
105 thereafter, without the need for any additional notice to the defendant.

106 (c) Any person entitled to service of process of a writ of summons
107 and complaint that commences an action for a dissolution of marriage,
108 dissolution of civil union, legal separation or annulment may waive

109 such service by executing a written waiver of service on a form
110 prescribed by the Office of the Chief Court Administrator. Upon filing
111 of the waiver of service, the action shall proceed as consistent with the
112 provisions of this chapter.

113 [(b)] (d) If any party is an inmate [of a mental institution in this
114 state] who is (1) committed to the custody of the Commissioner of
115 Correction, and (2) is a patient in a hospital for psychiatric disabilities,
116 a copy of the complaint shall be served on the Commissioner of
117 Administrative Services personally or by registered or certified mail. If
118 any party is confined in an institution in any other state, a copy shall
119 be so served on the superintendent of the institution in which the party
120 is confined.

121 Sec. 4. (NEW) (*Effective October 1, 2017*) (a) Following the expiration
122 of fourteen days after the return date for an action for dissolution of
123 marriage, dissolution of civil union or legal separation, if the
124 defendant is in default by reason of the defendant's failure to file an
125 appearance, the plaintiff may file a motion requesting a default
126 judgment be entered against the defendant and that a judgment of
127 dissolution or legal separation be entered. In addition to attesting that
128 the defendant is in default, the plaintiff shall also attest that service of
129 the defendant, pursuant to section 46b-45 of the general statutes, as
130 amended by this act, has been effectuated.

131 (b) If the plaintiff moves for a default judgment pursuant to
132 subsection (a) of this section, the matter shall be docketed for a
133 hearing. On or before the date of such hearing, the plaintiff shall file a
134 completed financial affidavit on a form prescribed by the Office of the
135 Chief Court Administrator and any proposed orders, if applicable, that
136 the plaintiff requests be incorporated into the decree of dissolution. If
137 the court determines, at hearing, that the conditions set forth in
138 subsection (a) of this section exist and that any proposed orders are fair
139 and equitable, the court may grant the motion for default judgment
140 and enter a decree of dissolution of marriage, dissolution of civil union

141 or legal separation.

142 (c) If the plaintiff moves for a default judgment pursuant to
143 subsection (a) of this section, and attests, under oath, on a form
144 prescribed by the Office of the Chief Court Administrator, that (1)
145 neither party to the action is pregnant; (2) no children were born to or
146 adopted by the parties prior to, or during, the marriage; (3) the parties
147 do not own any property jointly; (4) the parties do not have any jointly
148 held debt; and (5) the plaintiff is waiving any right to alimony or
149 spousal support, and files with the clerk of the court a completed
150 financial affidavit, the court may enter a decree of dissolution of
151 marriage, dissolution of civil union or legal separation on the date of
152 filing the motion for a default judgment, or not later than five days
153 after the date of filing such motion, without a hearing, if it finds that
154 the conditions set forth in subsection (a) of this section exist. If the
155 court does not enter a decree of dissolution of marriage, dissolution of
156 civil union or legal separation, the matter shall be docketed for a
157 hearing. At such hearing, if the court determines the conditions set
158 forth in subsection (a) of this section exist, the court may grant the
159 motion for default judgment and enter a decree of dissolution of
160 marriage, dissolution of civil union or legal separation.

161 (d) If the defendant files an appearance with the clerk of the court
162 subsequent to the plaintiff's filing a motion seeking to default the
163 defendant, but prior to the court acting on such motion, the motion for
164 default shall be denied.

165 (e) A decree of dissolution of marriage granted pursuant to this
166 section shall give the parties the status of unmarried persons and they
167 may marry again. Such decree shall also constitute a final adjudication
168 of the rights and obligations of the parties with respect to the status of
169 the marriage and the property rights of the parties.

170 (f) The provisions of subsection (a) of section 46b-67 of the general
171 statutes shall not apply to a decree of dissolution of marriage,

172 dissolution of civil union or legal separation brought under this
173 section.

174 (g) Nothing in this section shall prohibit either party to the
175 dissolution or legal separation from commencing an action to set aside
176 the final judgment for fraud, duress, accident, mistake or other
177 grounds recognized at law or in equity.

178 Sec. 5. Subsection (a) of section 46b-66 of the general statutes is
179 repealed and the following is substituted in lieu thereof (*Effective*
180 *October 1, 2017*):

181 (a) [In] Except as provided in subsection (c) of section 46b-44, in any
182 case under this chapter where the parties have submitted to the court
183 [an] a final agreement concerning the custody, care, education,
184 visitation, maintenance or support of any of their children or
185 concerning alimony or the disposition of property, the court shall
186 inquire into the financial resources and actual needs of the spouses and
187 their respective fitness to have physical custody of or rights of
188 visitation with any minor child, in order to determine whether the
189 agreement of the spouses is fair and equitable under all the
190 circumstances. If the court finds the agreement fair and equitable, it
191 shall become part of the court file, and if the agreement is in writing, it
192 shall be incorporated by reference into the order or decree of the court.
193 If the court finds the agreement is not fair and equitable, it shall make
194 such orders as to finances and custody as the circumstances require. If
195 the agreement is in writing and provides for the care, education,
196 maintenance or support of a child beyond the age of eighteen, it may
197 also be incorporated or otherwise made a part of any such order and
198 shall be enforceable to the same extent as any other provision of such
199 order or decree, notwithstanding the provisions of section 1-1d.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2017</i>	46b-44a
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Sec. 2	<i>October 1, 2017</i>	46b-44d
Sec. 3	<i>October 1, 2017</i>	46b-45
Sec. 4	<i>October 1, 2017</i>	New section
Sec. 5	<i>October 1, 2017</i>	46b-66(a)

Statement of Purpose:

To: (1) Revise the criteria used to determine if the parties to a dissolution of marriage action may avail themselves of a nonadversarial dissolution of marriage in such a way as to allow greater participation in the nonadversarial process; (2) revise court procedures associated with nonadversarial dissolution of marriage, and (3) permit the entry of a default judgment for certain dissolution and legal separation matters.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]